

175033

AUSTIN, LEWIS & ROGERS, P.A.

ATTORNEYS AND COUNSELORS AT LAW

DANIEL S. LEWIS
(1940-1981)

WILLIAM F. AUSTIN
E. CROSBY LEWIS
TIMOTHY F. ROGERS
RAYMON E. LARK, JR.
RICHARD L. WHITT
JEFFERSON D. GRIFFITH, III*
EDWARD L. EUBANKS
W. MICHAEL DUNCAN

COLUMBIA OFFICE:
CONGAREE BUILDING
508 HAMPTON STREET, SUITE 300
POST OFFICE BOX 11716
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 256-4000
FACSIMILE: (803) 252-3679
WWW.ALRLAW.COM

WINNSBORO OFFICE:
120 NORTH CONGRESS STREET
POST OFFICE BOX 1061
WINNSBORO, SOUTH CAROLINA 29180
TELEPHONE: (803) 712-9900
FACSIMILE: (803) 712-9901

*ALSO MEMBER NORTH CAROLINA BAR

August 2, 2005

VIA HAND DELIVERY

The Honorable Charles L. A. Terreni
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: JOINT PETITION FOR NOTICE/APPROVAL OF AGREEMENT AND
REASSIGNMENT OF SERVICE AREAS, BY DUKE POWER, A DIVISION OF
DUKE ENERGY CORPORATION, AND YORK ELECTRIC COOPERATIVE,
INC.

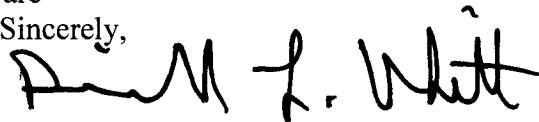
Dear Mr. Terreni:

Enclosed for filing please find the original and ten copies of Duke Power, a division of Duke Energy Corporation's, and York Electric Cooperative Inc.'s **Joint Petition** as denominated hereinabove.

Please note that the Office of Regulatory Staff has been served on even date. If you have any questions or concerns please do not hesitate to contact the undersigned.

With kind regards, we are

Sincerely,



William F. Austin
Richard L. Whitt

RLW/dss

cc: C. Dukes Scott, Esquire
Florence P. Belser, Esquire
James L. Thorne, Esquire

ORIGINAL

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2005-~~230~~-E

IN RE:)

JOINT PETITION FOR NOTICE/APPROVAL)
OF AGREEMENT AND REASSIGNMENT OF)
SERVICE AREAS, BY DUKE POWER, A)
DIVISION OF DUKE ENERGY CORPORATION,)
AND YORK ELECTRIC COOPERATIVE, INC.)
Petitioners.)
_____)

**JOINT
PETITION**

2005 JUN 22 11:30 AM
PSC

INTRODUCTION

Duke Power, a division of Duke Energy Corporation ("Duke") and the York Electric Cooperative, Inc. ("York Cooperative") respectfully request this Commission to approve this Joint Petition pursuant to § 58-27-650, 58-27-660(1), R103-386, S.C. Code Ann. (1976, as Amended), other applicable rules, regulations and statutes. Duke's and York Cooperative's Joint Petition for acceptance of Notice or Approval and Reassignment of Service Areas, follows:

PARTIES

Duke is an electric utility subject to the jurisdiction of this Commission. Duke is a North Carolina Corporation, domesticated to conduct and conducting business within the state of South Carolina. Attorneys authorized to receive communications relevant to this Petition are:

William F. Austin
Richard L. Whitt
AUSTIN, LEWIS & ROGERS, P.A.
Post Office Box 11716
Columbia, South Carolina 29211
(803)251-7443

Lawrence B. Somers
DUKE POWER, a division of
DUKE ENERGY CORPORATION
Post Office Box 1244, PBO5E
Charlotte, North Carolina 28201
(704) 382-8142

ORIGINAL

York Cooperative is an electric cooperative subject to limited jurisdiction of the Commission as an electric supplier pursuant to the Territorial Assignment Act. Attorneys authorized to receive communications relevant to this Petition are:

James L. Thorne
808 Knox Abbot Drive
Cayce, South Carolina 29033-3311
(803) 796-6060

BASIS FOR PETITION

§ 58-27-650

Duke and York Cooperative entered into an Agreement on April 15, 2005, to trade their rights and obligations to provide electric service to certain customers in certain areas, only as outlined therein (hereinafter, "the Agreement", a copy of Agreement attached hereto as Exhibit "A"). Duke and York Cooperative respectfully petition this Commission to review the attached Agreement, pursuant to §58-27-650 S.C. Code Ann. (1976, as amended). **Duke and York Cooperative petition this Commission, based on the agreement of the affected electric suppliers, to inquire into this matter and issue an Order reassigning a portion of Duke's service area and thereby allowing York Cooperative to serve** (i) all new customers in the unassigned portion of Springfield Sub-Division as set forth on Plat "1", Exhibit "B" hereto, (ii) the area of the existing Duke Corridor rights in the proposed Coulston owned subdivision, more fully described as being near the "Old PTL Property" as set forth on Plat "2", Exhibit "C" hereto, and (iii) Duke's assigned territory near the U.S. Highway 274 and Campbell Road intersection, as set forth on Plat "3", Exhibit "D". **Also, Duke and York Cooperative petition this Commission, based on the agreement of the affected electric suppliers, to inquire into this matter and issue an Order reassigning a portion of Duke's service area and thereby allowing Duke to serve** York Cooperative's assigned territory in the Carolina Lakes Subdivision in Lancaster County, South Carolina as set forth on Plat "4", Exhibit "E".

ORIGINAL

§ 58-27-660 (1)

Duke and York Cooperative entered into an Agreement on April 15, 2005, to reassign their rights and obligations to provide electric service in certain areas, as outlined therein. **Duke and York Cooperative respectfully petition this Commission to review** the attached Agreement, pursuant to §58-27-660 (1) S.C. Code Ann. (1976, as amended). Duke and York Cooperative petition this Commission, based on the agreement of the affected electric suppliers, to inquire into this matter and issue an Order (iii) accepting this Notice and giving informal approval or in the alternative (iv) formal approval. The two affected property owners (Pulte Homes and Paul R. Steadman) have agreed to the proposed territorial reassignment and electric service outlined in the Agreement and their written approvals are attached hereto as Exhibits “F” and “G”, respectively.

Duke and York Cooperative respectfully petition this Commission for review of the attached agreement, pursuant to §58-27-650 S.C. Code Ann. (1976, as amended) based on the agreement of the affected electric suppliers, to inquire into this matter and issue an Order reassigning a portion of Duke’s service area and thereby allowing York Cooperative to serve (i) the unassigned portion of Springfield Sub-Division as set forth on Plat “1”, Exhibit “B” hereto, (ii) the area of the existing Duke Corridor rights in the proposed Coulston owned subdivision, more fully described as being near the “Old PTL Property” as set forth on Plat “2”, Exhibit “C” hereto, and (iii) Duke’s assigned territory near the U.S. Highway 274 and Campbell Road intersection, as set forth on Plat “3”, Exhibit “D”. **Also, Duke and York Cooperative petition this Commission, based on the agreement of the affected electric suppliers, to inquire into this matter and issue an Order reassigning a portion of Duke’s service area and thereby allowing Duke to serve York Cooperative’s assigned territory in the Carolina Lakes Subdivision in Lancaster County, South Carolina as set forth on Plat “4”, Exhibit “E”.**

Duke and York Cooperative respectfully petition this Commission for review of the attached Agreement, pursuant to §58-27-660 (1) S.C. Code Ann. (1976, as amended). Duke and York Cooperative respectfully petition this Commission to review the attached

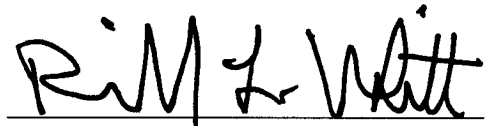
Agreement, pursuant to §58-27-660 (1) S.C. Code Ann. (1976, as amended). Duke and York Cooperative petition this Commission, based on the agreement of the affected electric suppliers, to inquire into this matter and issue an Order (iii) accepting this Notice and giving informal approval or in the alternative (iv) formal approval. The two affective property owners (Pulte Homes and Paul R. Steadman) have agreed to the proposed trade and electric service outlined in the Agreement and their written approvals are attached hereto as Exhibits "F" and "G", respectively.

CONCLUSION

This Commission should inquire into this matter and issue an Order:

- 1) granting reassignment of a portion of Duke's service area, thereby allowing York Cooperative to provide electric service to the areas as set forth hereinabove and;
- 2) granting reassignment of a portion of York Cooperative's service area, thereby allowing Duke to provide electric service to the area as set forth hereinabove, and;
- 3) accepting this notice and giving informal approval or in the alternative
- 4) giving formal approval of the actions outlined in the Agreement, if deemed necessary by this Commission and;
- 5) such other and further relief as this Commission may deem just and proper.

Respectfully Submitted,



William F. Austin
Richard L. Whitt
AUSTIN, LEWIS & ROGERS, P.A.
Post Office Box 11716
Columbia, South Carolina 29211
(803)251-7443

Lawrence B. Somers
DUKE POWER, a division of
DUKE ENERGY CORPORATION
Post Office Box 1244, PBO5E
Charlotte, North Carolina 28201
(704) 382-8142

ATTORNEYS FOR PETITIONER
DUKE POWER, A DIVISION OF
DUKE ENERGY CORPORATION

James L. Thorne

James L. Thorne
808 Knox Abbot Drive
Cayce, South Carolina 29033-331
(803) 796-6060

ATTORNEY FOR PETITIONER
YORK ELECTRIC COOPERATIVE, INC..

Columbia, South Carolina
Dated: August 2nd, 2005

Exhibit "A"
York Territory Exchange 1
Joint Petition



Your Touchstone Energy® Partner 

April 15, 2005

Mike Lopez
Duke Power
182 Talbert Rd.
Mooresville, N.C. 28117

Dear Mike,

Please find outlined in this letter a memorandum of understanding between Duke Power Company and York Electric Cooperative, Inc. concerning service rights and territory in the following areas: Carolina Lakes subdivision, Hwy 274 Business Park, Springfield subdivision, and the Coulston subdivision property near the old PTL. Plats of each area with the specified area highlighted are enclosed with this letter.

The agreement is as follows:

Duke Power Company agrees:

- To relinquish any, and all, Duke Power service rights in the unassigned portion of Springfield subdivision. This area is highlighted on an enclosed plat of the subdivision labeled as Plat # 1. Existing York Electric Cooperative corridor rights are not shown on this plat.
- To relinquish the existing Duke Power corridor rights in the proposed Coulston owned subdivision near the old PTL property. This area is highlighted on an enclosed plat of the subdivision labeled as Plat # 2.
- To assign to York Electric Cooperative Duke Power's assigned territory near the Hwy 274 and Campbell Road intersection, as highlighted on an enclosed plat labeled as Plat # 3.

York Electric Cooperative, Inc. agrees:

- To assign to Duke Power York Electric Cooperative's assigned territory in the Carolina Lakes subdivision located in Lancaster County, South Carolina. This area is highlighted on an enclosed plat of the subdivision labeled as Plat # 4.

This agreement constitutes the entire agreement and understanding between Duke Power and York Electric Cooperative Inc, and neither diminishes nor enhances any other service rights for either utility in either the designated areas or surrounding areas. This agreement is only meant to reflect service rights in the specified areas shown on Plats 1, 2, 3, and 4. Any amendments to this agreement must be in writing and executed by Duke Power and York Electric Cooperative, Inc.

Exhibit "A"
York Territory Exchange
Joint Petition

2

Duke Power Company

By: T.E. Schmeitz

Title: VP - Duke Power

Date: 4/26/2005

York Electric Cooperative, Inc.

By: Paul Bosta

Title: Pres & CEO

Date: 4/16/05

Exhibit "B"
York Territory Exchange
Joint Petition

Plat # 1

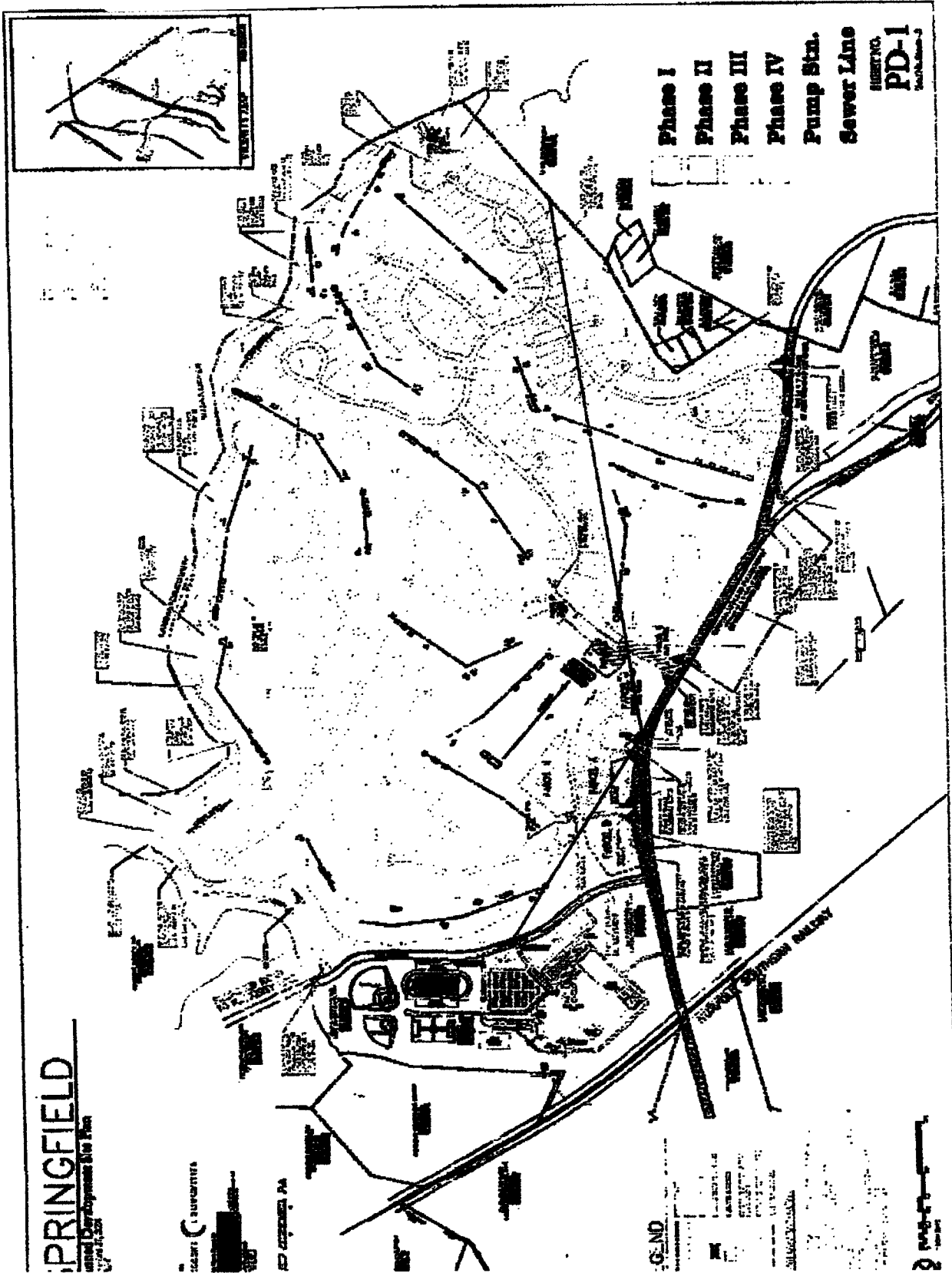
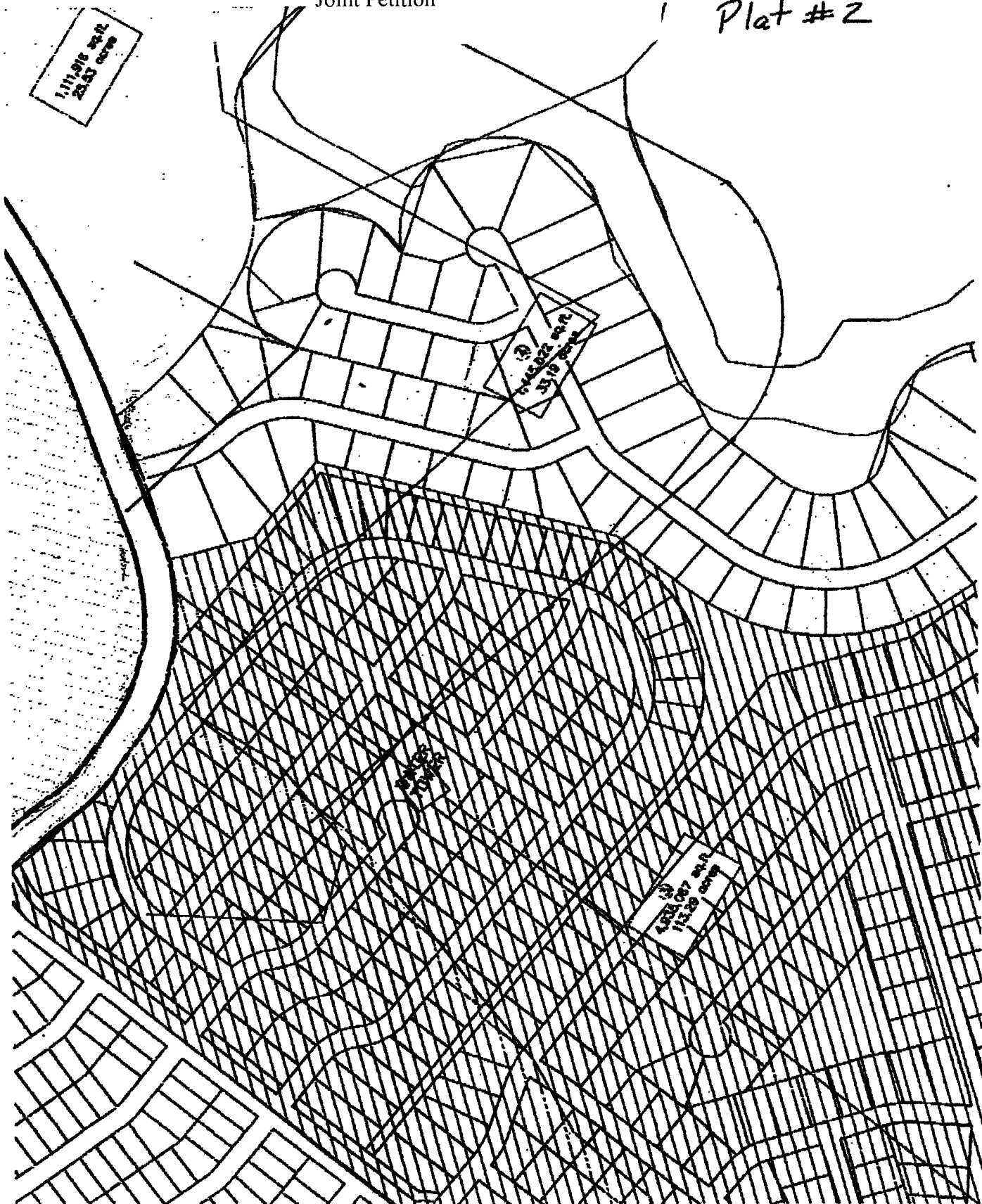


Exhibit "C"
York Territory Exchange
Joint Petition

Plat # 2



Plot # 3

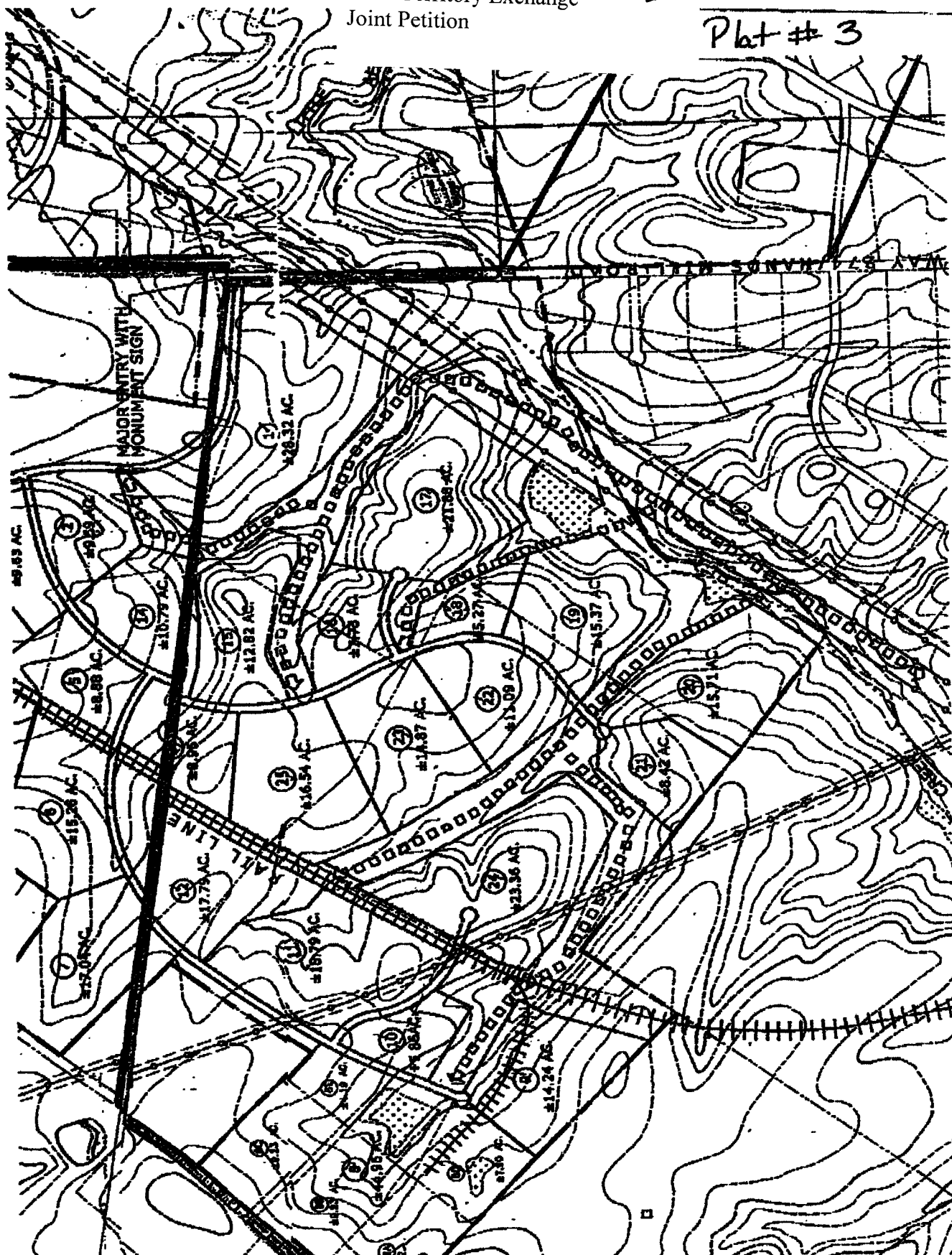


Exhibit "D"

York Territory Exchange 2
Joint Petition

Joint Petition

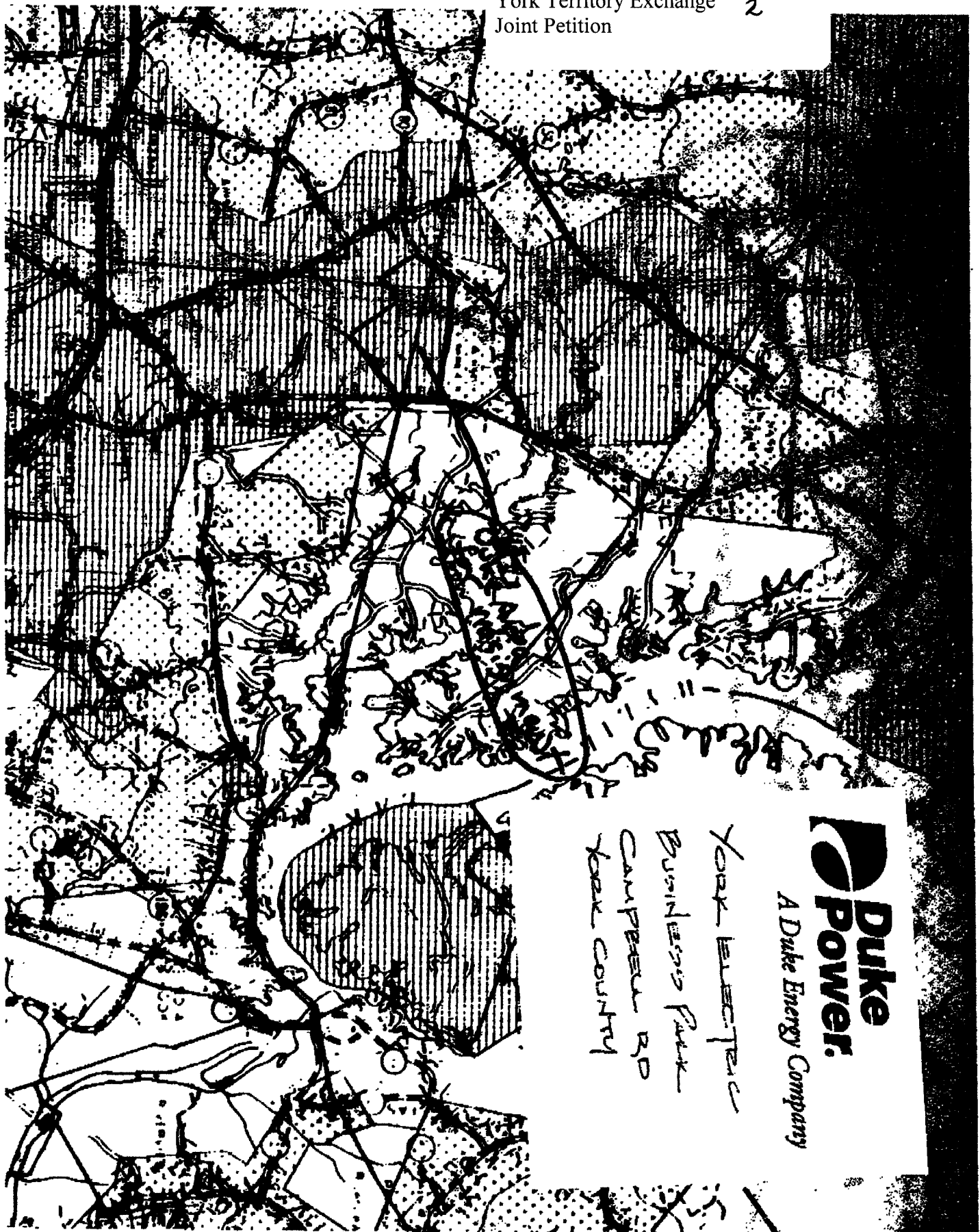


Exhibit "E"
York Territory Exchange
Joint Petition

1

Plat # 4

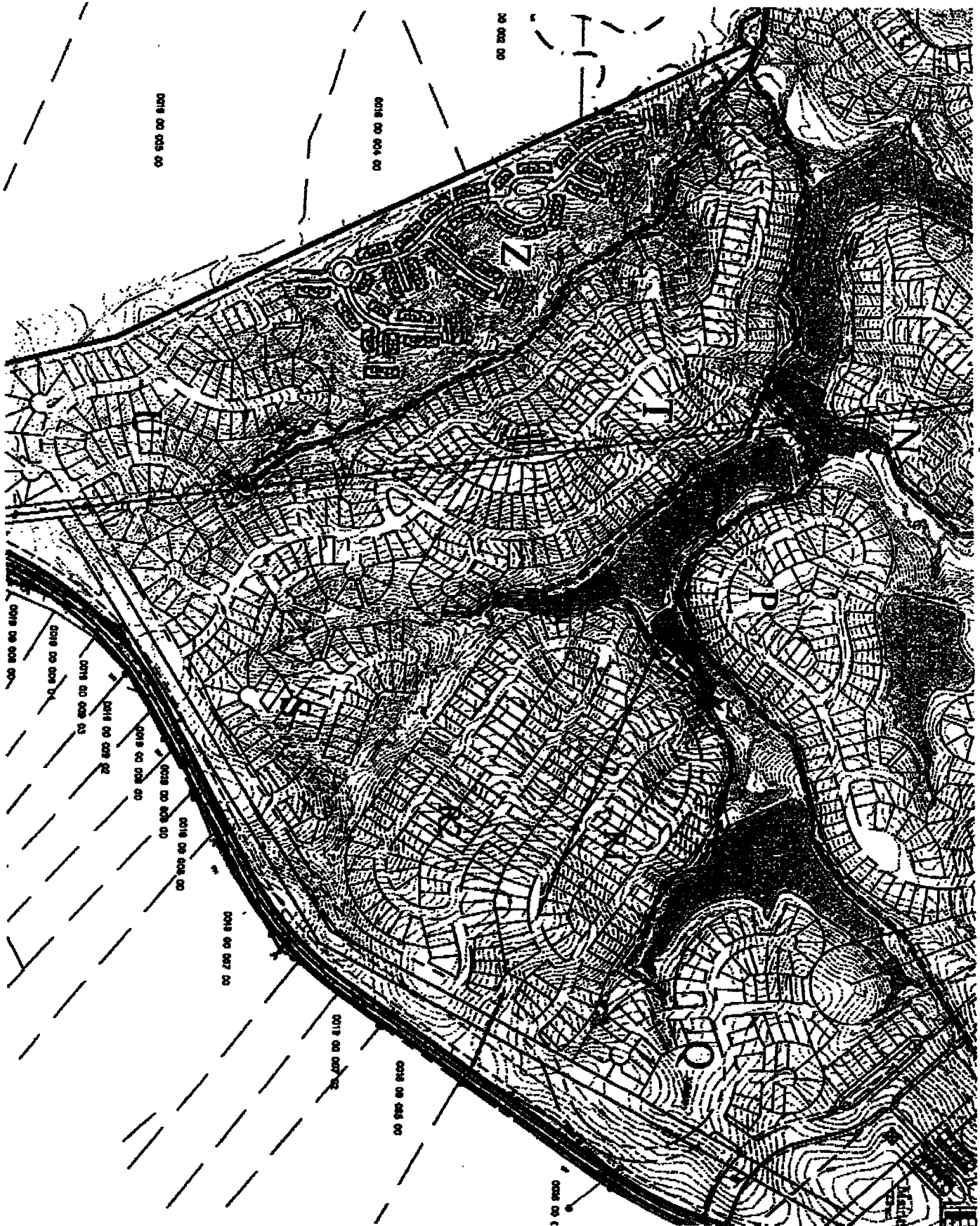
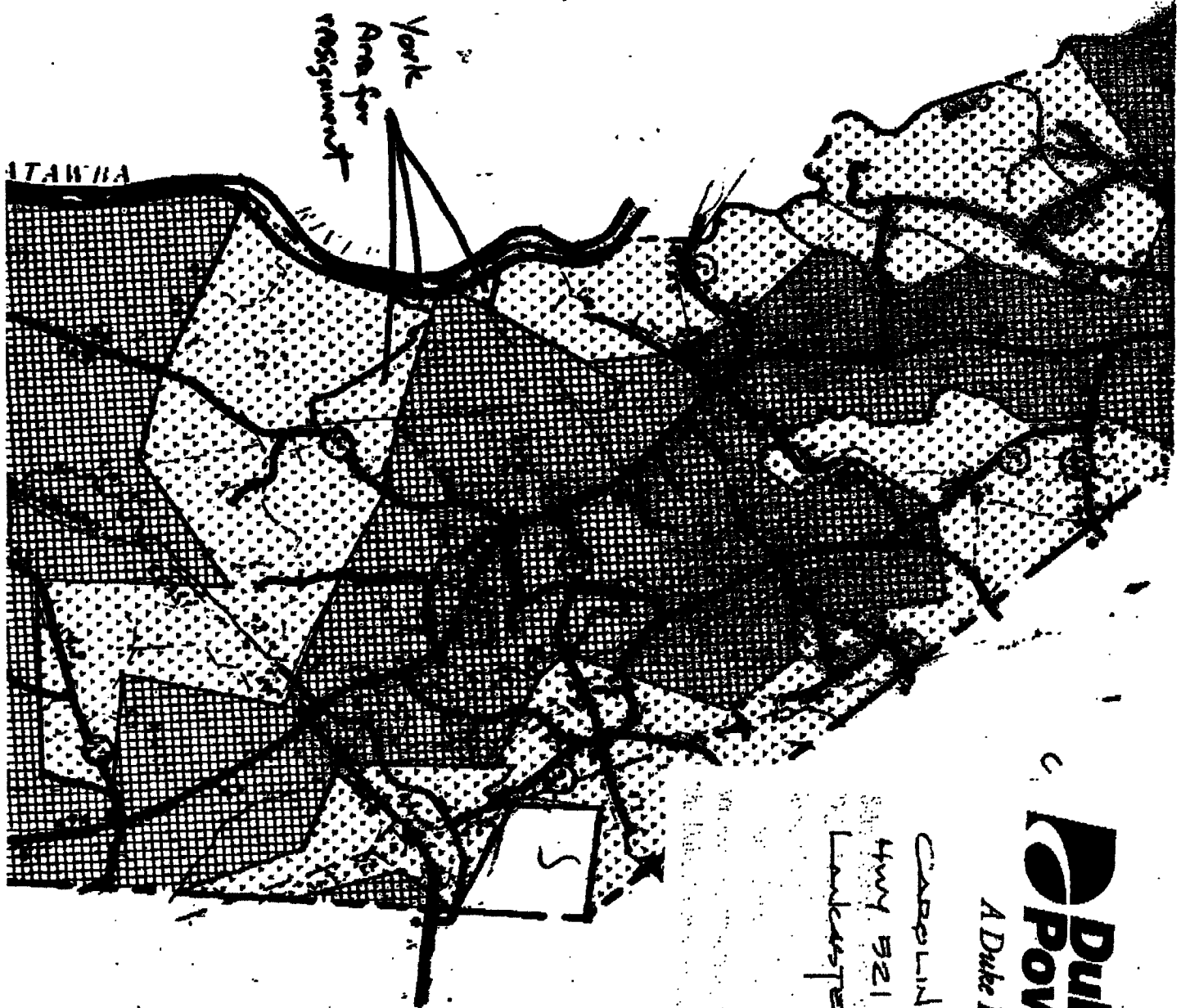


Exhibit "E"
York Territory Exchange
Joint Petition

2



**Duke
Power.**

A Duke Energy Company

CAROLINA LAKES

444 521

Landwestern County



11121 Carmel Commons Boulevard, Suite 450
Charlotte, North Carolina 28226
Phone: 704/414-7082
Facsimile: 704/414-7080
Email: Buck.Howarth@Pulte.com

April 01, 2005

Craig Spencer
Manager of Engineering
York Electric Cooperative, Inc.
P.O. Box 150
York, SC 29745

Reference: Sun City Carolina Lakes

Subject: Agreement Between York Electric and Duke Power

Dear Craig:

It is my understanding that Duke Power and York Electric Cooperative, Inc. have worked out an agreement in which York Electric will give up its service rights to the southern portion of the Carolina Lakes subdivision.

Pulte Homes is in agreement with allowing Duke Power to provide electric service to this area.

Sincerely,
PULTE HOMES

A handwritten signature in black ink, appearing to read "Buck Howarth".

Buck Howarth
Land Manager

Copy: David Currie - Duke Power
File: Dry Utilities

Copy: Marc

Paul R. Steadman

28173

8805 Briarstone Lane

Waxhaw NC

Phone: 704-575-2729

Fax: 704-846-9803

March 21, 2005

Craig
Mr. Paul Basha
York Electric Cooperative
PO Box 150
York, SC 29745

RE: +/- 322 Acres Near the Intersection of Hwy 274 & Campbell Road in York Co.

Dear Mr. Basha:

It is my understanding that York Electric Cooperative is now the electric provider for this entire property. The house @ 6357 Campbell Road on this property has been served by York Electric Cooperative, Inc. for years. I've been well pleased as your customer since my purchase of this property in 2001.

It is my choice to select York Electric Cooperative as the provider in lieu of Duke Power. I would appreciate your immediate attention in making this change.

Sincerely,

Paul R. Steadman

Paul Steadman